

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

July 2, 2013

Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Ron Siciliano, Jack Wessler, Joseph Koczeniak, Chad Oberson, Scott Lepsky and Debbie Pennington. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Don Carpenter carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on June 5, 2013 were approved. Motion carried 6-0.

Old Business

Case No. BZA-13-0024 – Ground sign in R-3 zoning district – 5217 Dorshire Dr.:

AR Realty is requesting a variance to install a ground sign for an apartment in the R-3 zoning district.

STR had no comment on this case.

Property Owner's Comment

Louis Bunton, Property Manager for AR Realty, spoke regarding the variance. The proposed signs will be 36"x 24", consisting of laminate on pressed board mounted to two posts. The top of the sign will be approximately 4 feet from the ground and will not have any lighting. It will be a permanent sign, two sided and approximate a ½ inch thick. They need it for marketing purposes. This sign would replace the temporary ones they put out to advertise. Mr. Helsinger clarified that the R-3 zone doesn't allow ground signs, but signs on the building are allowed. Mr. Bunton said they do not have the footage available on the building; that's why they want the ground signs. Tim Bachman, Director of Development Services, spoke regarding the variance. Most of the apartment complexes in the city have these types of signs for identification. Mr. Bunton said the largest complex of the three they are requesting variances for is the one on Dorshire Dr.. You wouldn't even know the complex is there, because of the lack of signage. Mr. Kozceniak asked if they would consider a better quality sign. Money is an issue now, but they may come back in the future for a nicer sign if this one is approved. They wanted a sign that wouldn't be out of place in the neighborhood, to see if it works for a year or two. Mr. Kozceniak asked if the sign they are proposing would be allowed in the proper zoning area. Mr. Helsinger confirmed that signs are permitted. Mr. Oberson and Mr. Siciliano expressed concern that the signs look too temporary. Mr. Bunton said he is willing to install something nicer, in order to get the variance approved. Mr. Siciliano referenced the letter that was sent last month for this case, opposing the variance.

Public Hearing

There was no comment from the audience.

Board Re-Convened

Ron Siciliano, seconded by Scott Lepsky, made a motion to table the variance until the August 7, 2013 meeting, pending resubmission of more detailed plans of the proposed sign. Motion carried 6-0.

Case No. BZA-13-0025 – Ground sign in R-3 zoning district – 3197 Roesch Blvd.:

Scott Lepsky, seconded by Debbie Pennington, made a motion to table the variance until the August 7, 2013 meeting, pending resubmission of more detailed plans of the proposed sign. Motion carried 6-0. There was discussion on the neighbor that attended last month's meeting, and the concern that AR Realty did not know where the property lines were.

Case No. BZA-13-0026 – Ground sign in R-3 zoning district – 25 Heffron Ct.:

Scott Lepsky, seconded by Debbie Pennington, made a motion to table the variance until the August 7, 2013 meeting, pending resubmission of more detailed plans of the proposed sign. Motion carried 6-0.

New Business:

Case No. BZA-13-0029 – Cell tower on less than 2 acres - 9247 Seward Rd.:

Larry Voyles is requesting a variance to allow a cell tower to remain on less than 2 acres, after a proposed lot split.

STR had no comment on this case. Tim Bachman spoke regarding the variance. The owners are planning to do a lot split on this property, leaving the cell tower with no frontage on Seward Road. Any concerns he had were addressed on the site plan provided, keeping the two access easements and utility easements intact.

Property Owner's Comment

Larry Voyles spoke regarding the variance. He is with Great American Farms, who owns the property. They are selling the property, and the new owner does not want the tower. Ivan Buyers, of Calvary Industries, 9233 Seward Rd. is the property owner next door, and future owner of the property in question. The permanent easement will remain after the sale, and they would purchase the rest. Mr. Kozceniak asked when and why the 2 acre rule was put into place. Mr. Bachman said it was in the mid 1990's, when the towers were new items. Mr. Clemmons said the thinking was that if the tower fell, it would be on their property. There was another case on Pleasant Ave where a tower was on less than two acres. Mr. Kozceniak is worried about setting precedent. What is to stop anyone else from doing this? Mr. Bachman sees his point, but in this case, he doesn't think it's a problem. They meet the minimum setback amount for the cell tower. Mr. Clemmons said this case will police itself; there are still less than two acres and the land left after the lot split does not allow a second tower. Mr. Kozceniak asked what their "plan B" was if the variance is not approved. It's complicated; they will need to figure out the real estate taxes for that lot and split them. There are also many contracts to be dealt with. Mr. Kozceniak asked if they wanted to get the variance to make their life easier. Mr. Lepsky said he is willing and would like to make their life easier, because they are a good employer.

Mr. Buyers said they may not purchase the property at all if the variance is not approved. They want to avoid the liability of the cell tower. They are a good employer in Fairfield and hope to be here for many more years. Mr. Siciliano said they are not asking to allow a new tower on less than two acres, they are just asking to facilitate a sale of the property. They are not buying the property to expand; they could use the parking spaces and office space. Mr. Buyers has 6 acres at his site, and he may want to expand in the future; another 14,000 sq ft on his building. Mr. Wessler asked if they planned to consolidate the two properties. They have no intention to consolidate, unless it helps them to get the variance approved. There was discussion regarding the permanent easements.

Public Hearing

There was no comment from the audience.

Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to approve the variance as submitted. Motion carried 5-1, Joseph Kozceniak dissenting.

Case No. BZA-13-0030 – Use variance for office/fitness center– 3630 Mack Rd.:

Anne McBride, for Brandywine Court Investors, LLC, is requesting a use variance to construct an office/fitness center in the A-1 zoning district.

STR had no comment on this case.

Tim Bachman spoke about the memo sent to the board regarding the use variance. The A-1 zone permits basketball and tennis courts and other recreational items. The existing courts are in disarray and are an eyesore. The new tenant has already removed the dilapidated fence at the city's request. They are proposing a workout facility that will be tied to the multi family. With a zone change, it is possible that more multi family buildings could be constructed.

Property Owner's Comments

Anne McBride spoke regarding the variance. Brandywine Court Investors bought this property in 2011. The lot in question was improved quite a bit at the request of City staff. They invested over a million dollars in the apartment buildings, gutted and remodeled them and replaced the siding. They are adding the workout building as an amenity for the apartments. The rental office will also be located in the building. The building will be residential in character, with shutters and columns. Access will be on Boymel Dr., with 4 parking spaces in front. The existing concrete form the tennis court will be removed and become lawn. This is a unique situation; it was a recreational use before, and they are continuing that use. This is a respectful use of the property and will have no negative impact. The lot is not large enough for other uses allowed in the A-1 zone; it is smaller than the 20,000 SQ FT required to build a new single family. Mr. Oberson feels there is a lot of turf planned; are there any long term ideas for the rest of the property? There is nothing planned now. Maybe in the future a pool or something could be added. Mr. Kozceniak asked if the building materials will match the apartments. The building will be brick, and the apartments are vinyl siding and brick. There was discussion on the occupancy of the apartments and how they came up with that size building. The apartments are at around 95% occupied. The owners of the complex own many other complexes and have built similar size buildings for them. This size seems to work. Mr. Lepsky asked about the hours of operation. The workout space will have a security passcode entrance and be used as needed. The current leasing office hours are 12-5 Monday-Friday. There was discussion about fencing and whether or not it was detrimental to the property. At this time no fence is planned for the property.

Public Hearing

Florence Voner, 3620 Mack Rd., spoke regarding the variance. She is upset that the building is going to be built. It is a residential area and she doesn't want to see a pool installed. She is afraid they will be removing the tree line that runs between the properties. Ms. McBride said the proposed building will be 65 feet from the property line, at the 30 foot setback line. The trees will not be removed. The site plan showing the sanitary sewer coming through the property has been changed; it has been relocated to the parking lot of the apartment next door. Mr. Lepsky said the use variance gives the board more control over what could or could not be built there. There was discussion on the loitering problem in the past on the property. The issue has improved since this owner took over. Mr. Kozceniak asked if the grass area will be available to "hang out" on. It will be like any other green space on the property. Fred Cantor, Rookwood Properties, spoke regarding the variance. He hasn't thought about what the green space will be used for. He has no plans to restrict the use, but doesn't think it will be a problem. They are trying to upgrade the property. Mr. Lepsky said they could come back before the board if they wanted to add anything else to the property. Mr. Kozceniak wants to restrict the hours of the green space, but Mr. Oberson thinks law enforcement staff should handle that, not the Board of Zoning Appeals. They should not be in the business of micro managing the property. The owners have put a significant amount of money into the property, they are better owners than the previous ones. Mr. Cantor said he would rather have the board restrict the hours than tell them they can't place a table in the grassy area.

Board Re-Convened

Scott Lepsky, seconded by Debbie Pennington, made a motion to approve the variance with the following stipulations:

- The sanitary sewer shown on the site plan will be relocated to the parking lot of the adjacent multi-family so the existing tree buffer is not disturbed.
- No additional permanent structures will be constructed without Board of Zoning Appeals approval.
- The proposed building will be constructed as shown on the submitted floor and elevation plans.

Motion carried 6-0.

Case No. BZA-13-0031 – Pool 1 foot from the property line – 4805 Fairfield Ave.:

Steve Hacker is requesting a variance to install a pool 1 foot from the property line.

STR had no comment on this case.

Property Owner's Comments

Steve Hacker spoke regarding the variance. He has a large yard, but being on a corner lot prohibits much from being done. He has had the pool in the same spot for the last 3 years. He plans on moving in the spring, but will retain this property for rental. He doesn't plan on keeping the pool for the tenants; they just plan to use this summer and remove permanently in September. There are electrical lines that run through the property as well, prohibiting proper placement of the pool.

Public Hearing

Bill Meyer, 885 Mapelridge Dr. spoke regarding the variance. His daughter owns the property at 846 Walter Ave. She will be installing a chain line fence along the side of her property. This will allow children to access the pool, since it will be so close to the property line. He has space to move the pool to the back of the property line. He will be setting a precedent for other properties. There are electrical lines that run from the back of her home that would be 9 feet from the edge of the pool. Mr. Siciliano asked if the pool had to be a certain distance from the neighbor's electrical lines. There was discussion on electrical requirements for pools. Mr. Helsinger said he would have to check on that issue and determine in the field whether the pool is too close to the lines. Mr. Hacker said it was not his intention to side step the code. The proposed chain link fence is a new issue to him; they had discussed a privacy fence. The placement of his pool was not something they had discussed. He thought there was a better understanding of what each neighbor was doing. Mr. Kozceniak asked if the neighbors would consider waiting until September before putting up their chain link fence; since the pool is going to be removed permanently in September. They plan on installing the fence in the next couple months. Mr. Wessler said if they tabled the case for a month that would give everyone the opportunity to check the placement of the pool and electric lines.

Board Re-Convened

Joseph Kozceniak, seconded by Scott Lepsky, made a motion to table the variance until the August 7, 2013 meeting, to allow field inspection of the electrical lines on this property and the property at 846 Walter Ave and their location to the pool. Motion carried 5-1, Ron Siciliano dissenting.

Other Business

None

Adjournment:

Motion to adjourn carried 6-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary